

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 21 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MICHAEL D. STORMAN,

No. 18-15337

Plaintiff-Appellant,

D.C. No. 2:17-cv-00976-MCE-AC

v.

MEMORANDUM*

OFFICE OF THE SECRETARY, United
States, DHHS,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted June 12, 2018**

Before: RAWLINSON, CLIFTON, and NGUYEN, Circuit Judges.

Michael D. Storman appeals pro se from the district court's order denying his motion for relief from judgment under Federal Rule of Civil Procedure 60(b).

We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255,

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

1262 (9th Cir. 1993), and we affirm.

The district court did not abuse its discretion by denying Storman's motion for relief from judgment because Storman failed to demonstrate any basis for such relief. *See id.* at 1263 (setting forth grounds for relief under Rule 60).

We lack jurisdiction to review the dismissal because the record reflects that Storman's action was voluntarily dismissed without prejudice. *See Concha v. London*, 62 F.3d 1493, 1507 (9th Cir. 1995) ("A voluntary dismissal *without prejudice* is ordinarily *not* a final judgment from which the plaintiff may appeal."); *WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1135 (9th Cir. 1997) (en banc) (issue of jurisdiction must be raised sua sponte).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, *see Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009), or documents not filed with the district court, *see United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

Storman's motion to expedite the case (Docket Entry No. 4) is denied.

AFFIRMED.